

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

THE STATE OF TEXAS,

Plaintiff,

v.

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION, *et al.*,

Defendants.

Case No. 2:21-cv-00194

District Judge Matthew J. Kacsmaryk.

**DECLARATION OF RAYMOND PEELER**

Pursuant to 28 U.S.C. § 1746, I, Raymond Peeler, declare the following to be a true and correct statement of facts:

1. I have been an employee of the Equal Employment Opportunity Commission (“EEOC”) continuously since January of 1999. Since July 2018, I have served as the Assistant Legal Counsel, Coordination and Age Discrimination in Employment Act (“ADEA”) Division, in the agency’s Office of Legal Counsel. Immediately prior to assuming leadership of the Coordination and ADEA Division, I worked as a Special Assistant in the Office of the Chair, first to Chair Jenny Yang, and then to Acting Chair Victoria Lipnic once she assumed the role in January 2017, from September 2015 until July 2018. From 2004 until September 2015, I worked as a Senior Attorney-Advisor in the Office of Legal Counsel’s Title VII, ADEA, and Equal Pay Act Division.
2. On October 15, 2019, Executive Order 13891 was published. Pursuant to the Order and to guidance issued on October 31, 2019, by the Office of Management and Budget (“OMB”),

each Executive Branch agency was required to, among other things, establish a single, searchable database on its website (“guidance portal”) containing links to all currently effective documents meeting the Order’s definition of “guidance,” and for each document the agency had to provide information including a unique identifier, the date it was issued, and the date it was posted to the website. Agencies were required to complete this process by February 28, 2020.

3. I was responsible for ensuring the EEOC’s compliance with the Executive Order, and only a few EEOC staff were assigned to assist with completing this process. This entailed creating a new system of indexing any documents that meet the Order’s definition of “guidance,” and ensuring that these documents were timely published on the guidance portal.
4. Hundreds of documents had to be reviewed, indexed, and included on the EEOC’s guidance portal. Nearly 200 of these documents had been authorized by EEOC Chairs rather than voted on by the full Commission, and most of these did not have issue or upload dates attached to them, as this had not been a requirement at the time the documents were originally published on the EEOC website. As such, the few EEOC staff tasked with this project had to attempt to determine these dates by contacting EEOC personnel who had been involved in the drafting or publication of the documents, or by reviewing any files that may have been available. Because the EEOC’s website had recently been updated to a new system architecture, we could not simply rely on the upload dates available from our website staff. Once the publication dates had been ascertained to the best of our ability, an identifier, referred to as the OLC Control Number, was assigned to each document that included the document’s year of publication in the identifier itself, as required by OMB guidance.

5. I am familiar with the 2016 EEOC document entitled “Preventing Employment Discrimination Against Lesbian, Gay, Bisexual or Transgender Workers (brochure)” (“2016 EEOC Document”), found at <https://www.eeoc.gov/laws/guidance/preventing-employment-discrimination-against-lesbian-gay-bisexual-or-transgender> and attached as Exhibit A to this Declaration, due to my extensive work with the guidance portal and to the fact that I was serving as a Special Assistant in the Office of Chair Yang at the time the document was first published.
6. The 2016 EEOC Document was published on EEOC’s public website in 2016, as reflected in the OLC Control Number for the document of EEOC-NVTA-2016-2; as noted above, a document’s OLC Control Number reflects the year of publication. The EEOC webpage where the document appears also reflects an issue date of 4-29-2014. The 2016 EEOC Document replaced a previously issued document concerning similar subject matter, and the issue date refers to that prior document.
7. Other than responding to a document request from agency counsel and this declaration, I have had no involvement with this litigation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 21st day of December 2021.

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RAYMOND PEELER  
Assistant Legal Counsel  
Coordination & ADEA Division  
Office of Legal Counsel  
U.S. Equal Employment Opportunity Commission